

Message Text

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64

ACTION TRSE-00

INFO OCT-01 EUR-25 EA-11 ISO-00 SP-03 AID-20 EB-11 NSC-07

RSC-01 CIEP-03 SS-20 STR-08 OMB-01 CEA-02 CIAE-00

COME-00 FRB-03 INR-11 NSAE-00 XMB-07 OPIC-12 LAB-06

SIL-01 L-03 H-03 DRC-01 /160 W
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R 111753Z SEP 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 4975

INFO AMEMBASSY BERN

AMEMBASSY BRUSSELS

AMEMBASSY THE HAGUE

AMEMBASSY LONDON

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

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DEPARTMENT PASS TREASURY AND FEDERAL RESERVE

E.O. 11652: N/A

TAGS: EFIN, GW

SUBJECT: GERMAN GOLD CLAUSE

REF: STATE 188463

1. SUMMARY. THE INCLUSION OF A GOLD CLAUSE IN A CONTRACT OR OTHER OBLIGATION IS IN GERMANY SUBJECT TO BUNDESBANK APPROVAL ON A CASE BY CASE BASIS. SUCH APPROVAL HAS NEVER BEEN GIVEN. END SUMMARY.

2. ARTICLE 3 OF THE CURRENCY LAW (WAEHRUNGSGESETZ) OF
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JUNE 30, L948, STATES: "MONEY DEBTS MAY BE CONTRACTED

IN A CURRENCY OTHER THAN DEUTSCHE MARKS ONLY WITH THE PERMISSION OF THE COMPETENT FOREIGN EXCHANGE CONTROL AGENCY. THE SAME RULE APPLIES TO MONEY DEBTS THE DEUTSCHE MARK AMOUNT OF WHICH IS TO BE FIXED IN TERMS OF THE EXCHANGE RATE FOR SOME OTHER CURRENCY, OR BY THE PRICE OR QUANTITY OF FINE GOLD OR OTHER GOODS OR PERFORMANCES."

3. ARTICLE 49, PARAGRAPH 2 OF THE LAW ON FOREIGN TRADE AND PAYMENTS (AUSSENWIRTSCHAFTSGESETZ) STATES THAT THE BUNDESBANK IS THE AGENCY FROM WHICH PERMISSION MUST BE RECEIVED AND THAT ARTICLE 3, SENTENCE 1 (ABOVE) OF THE CURRENCY LAW DOES NOT APPLY TO TRANSACTIONS BETWEEN RESIDENTS AND NONRESIDENTS.

4. REFERENCING THE ABOVE CITATIONS, THE FRG FINANCE MINISTRY AND THE BUNDESBANK CONFIRM THAT CONTRACTS CONTAINING PROVISIONS FOR PAYMENT IN A STATED QUANTITY OF GOLD OR CURRENCY EQUIVALENT MUST BE APPROVED BY THE BUNDESBANK. SUCH APPROVAL HAS NEVER BEEN GIVEN. MULTIPLE CURRENCY CLAUSES WHEREBY THE LENDER OR SELLER IS GIVEN THE OPTION OF RECEIVING PAYMENT IN FIXED AMOUNTS OF SEVERAL DIFFERENT SPECIFIED CURRENCIES ARE PERMITTED, WITHOUT APPROVAL BEING OBTAINED FROM THE BUNDESBANK, PROVIDED THE DEUTSCHEMARK IS NOT A PART OF THOSE CURRENCIES AND PROVIDED THE CONTRACT IS BETWEEN A RESIDENT AND NONRESIDENT. IF THE DM WERE PART OF THE MULTIPLE CURRENCY BUNDLE OR IF THE CONTRACT WERE BETWEEN RESIDENTS, APPROVAL FROM THE BUNDESBANK WOULD BE REQUIRED. CONTRACT CLAUSES PROVIDING FOR PAYMENT IN CURRENCY EQUIVALENT TO A PREDETERMINED UNIT OF ACCOUNT -- E.G. THE EURCO -- ARE PERMITTED PROVIDED AT LEAST ONE PARTY TO THE CONTRACT IS A NONRESIDENT.

5. NO OTHER STANDARD FOR MEASURING THE VALUE OF CURRENCY OBLIGATIONS EXIST. REFTEL B (4)

6. THE BUNDESBANK MONTHLY REPORT OF APRIL 1971 (VOL. 23, NO. 4) PROVIDES A SYNOPSIS OF CURRENT BUNDESBANK POLICY IN GRANTING PERMITS FOR VARIOUS TYPES LIMITED OFFICIAL USE

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OF VALUE GUARANTEE CLAUSES.
HILLENBRAND

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